

REMARKS

The Official Action of May 4, 2005, and the prior art relied upon therein have been carefully reviewed. The claims in the application are now claims 1-24 and new claims 31-50, and these claims define patentable subject matter in accordance with sections 102 and 103, consistent with what is stated in the Official Action, whereby the present application should now be in condition for formal allowance. Accordingly, applicants respectfully request favorable consideration and early formal allowance.

Acknowledgment by the PTO of the receipt of applicants' papers filed under section 119 is noted.

As noted in paragraph 10 on page 9 of the Official Action, claims 10, 11 and 13-15, while rejected on the basis of double patenting, have been indicated as being allowable if rewritten in independent form. Applicants accordingly understand that these claims are deemed by the PTO to define novel and unobvious subject matter under sections 102 and 103, and to meet all other requirements for patentability.

Accordingly, claim 13 has been rewritten in independent form by incorporating the subject matter thereof into claim 1. Patentable claim 13 thus appears in the form of amended claim 1 whereby claim 1 and all the claims which

depend therefrom should now be in condition for formal allowance.

Claim 10 has been rewritten in independent form as new independent claim 31, and claim 13 has been amended to depend from claim 31. As new claim 31 corresponds to allowable claim 10, claim 31 and all of the claims which depend therefrom should now be in condition for formal allowance.

New subsidiary claims 32-39, 42-44 and 47-50 are dependent on allowable claim 31, and the dependent portions of these subsidiary claims recite subject matter similar to that of original claims 2-8, 12, 16-18 and 21-24, respectively. New claims 40, 41, 45 and 46 depend from patentable claim 13, and the dependent portions of these new dependent claims recite subject matter similar to that of original claims 14, 15, 19 and 20, respectively. All these claims should be in condition for formal allowance.

Claims 1-15 have been rejected on the grounds of obviousness-type double patenting over claims 1-20 of U.S. Patent No. 6,166,801. Claims 1-6 and 13 have been rejected on the basis of obviousness-type double patenting over claims 1-31 of U.S. Patent No. 6,603,529. While applicants do not necessarily agree with these double patenting rejections, they are nevertheless overcome by the submission herewith of an

appropriate terminal disclaimer. As such terminal disclaimer is signed by undersigned attorney of record, compliance with 37 C.F.R. § 3.73(b) is unnecessary.

Withdrawal of the double patenting rejections is in order and is respectfully requested.

Claims 1-3, 5, 6, 25, 28 and 29 have been rejected under section 102 as anticipated by Akimoto '047. In addition, claims 4, 9 and 27 have been rejected as obvious under section 103 from Akimoto in view of Kawai '036 or Mazor '413; claims 6, 26, 29 and 30 have been rejected as obvious under section 103 from Akimoto in view of "the CD control article"; and claim 7, 8, 12, 16-18 and 21-24 have been rejected under section 103 as obvious from Akimoto in view of Moore U.S.P. '632. These rejections are respectfully traversed.

Nevertheless, applicants need not address these rejections at the present time in view of the amendments presented above, whereby the claims as rejected are no longer pending in the present application. The amendments made above have been made without prejudice to applicant's rights, including those rights provided by sections 120 and 119, to pursue the deleted subject matter in a continuing application, if applicants choose to do so. Accordingly, such amendments are made at the present time without dedication, disclaimer,

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abandonment, waiver, forfeiture, renunciation, concession or surrender of any kind.

The prior art documents made of record and not relied upon have been noted, along with the implication that such documents are deemed by the PTO to be insufficiently pertinent to warrant their application against any of applicants' claims.

Applicants believe that they have addressed all issues raised in the Official Action in a manner which should lead to allowance of the present application. Accordingly, applicants again respectfully request favorable consideration and early formal allowance.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant

By



Ronni S. Jillions  
Registration No. 31,979

RSJ:tbs

Telephone No.: (202) 628-5197

Facsimile No.: (202) 737-3528

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